IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.2987 OF 2005

Rahul Chokhani Petitioner

vs.

Union of India & ors. Respondents

Mr.Madhur Baya for the petitioner.

Mr.B.A.Desai, Additional Solicitor General with
Mr.P.P.Kakade for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 13th March, 2006

P.C.

Heard Mr.Madhur Baya, the learned counsel for the petitioner.

2. The grievance raised by the petitioner in this writ petition is concerning non-verification of DEPB licences in respect of the exports made by the petitioner under the Shipping Bills dated 28.11.2003 (Exhibits B1, B2, B3, B4, B5 and B6) and the Shipping Bills dated 09.09.2003 (Exhibits D1, D2 and D3) and for direction to the respondent no.2 to revalidate the DEPBs (Exhibits H1, H2, H3 and H4) for a usable period of 12 months post verification by respondent nos. 3 and 4.

3. In response to the writ petition, the Assistant Commissioner of Customs, DEPB, Verification Section (Export Commissionerate) has filed the reply affidavit. It is stated in the reply affidavit that the petitioner's firm-M/s.IPOG International submitted four

DEPB licences and documents pertaining to nine Shipping Bills. The total DEPB Credit involved in four DEPB licences and nine Shipping bills is Rs.71,16,826/- which is calculated on the basis of the FOB values of the consignments as declared in the aforesaid nine Shipping Bills which was to the tune of Rs.4.04 crores. The shipment in respect of the shipping bills was allowed provisionally by the Additional Commissioner, Special Investigation and Intelligence Branch (Export) for verification and assessment of the correct value of the export goods, which was covered vide the said nine shipping bills. There was an Alert Circular issued by the Deputy Commissioner of Customs for not doing DEPB verification and allowing drawback in respect of the petitioner's firm without NOC from the SIIB(Export Branch) of the Export Promotion Commissionerate. The verification of DEPB scrips were accordingly pending. Inquiries were made with SIIB (Exports) who informed that the case of M/s.IPOG International was taken over by CBI/ACB in connection with the investigation case registered against Shri Shrikant S. Patil, Additional Commissioner of Customs and six others under Section 120-B read with Section 420 of IPC and Section 13(2) read with Section 13(1)(d) of Prevention of Corruption Act, 1988. Investigation in the aforesaid crime is still going on. It is, thus, stated that in view of the Alert Circular and investigation pending with CBI/ACB, the said shipping bills and DEPB scrips have not been verified and the petitioner has not been allowed

benefit. From the annexure annexed in the reply affidavit it also transpires that the CBI/ACB has also intimated to SIIB that IPOG International (petitioner's firm) is one of the FIRs named accused in the case. The reason given by the authority for non-verification of DEPB scrips, thus, cannot be said to be without any basis or justification.

4. The reliance placed by the learned counsel for the petitioner upon the judgement of the Calcutta High Court in the case of Kanhaiya Exports v. Commissioner of Customs, **2001(133) E.L.T.280** is of no help to the petitioner in the facts of the present case.

5. Yet another judgment of the Calcutta High Court in the case of Sugandha Industries Ltd. v. A.K.Saha, **2003 (156) E.L.T.328** upon which reliance has been placed the learned counsel for the petitioner does not carry the case of the petitioner further.

6. Writ petition does not deserve to be admitted. Dismissed in limine.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)